

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO

In re:) Case No. 16-61063
)
MARK ANTHONY TUFTS)
KEITHA (NMN) TUFTS) Chapter 13
)
Debtor(s).) Judge Russ Kendig
)
) MOTION OF RICHLAND COUNTY
) TREASURER FOR RELIEF FROM STAY
)
) Unnumbered lot Bell Street, Mansfield,
) Richland County, Ohio
)
) Parcel #: 027-04-002-09-000

RICHLAND COUNTY TREASURER (the “Movant”) moves this Court, under Bankruptcy Code §§ 361, 362, and 363, and other sections of Title 11 of the United States Code, under Federal Rule of Bankruptcy Procedure 4001, and under Local Bankruptcy Rule 4001-1 for an order conditioning, modifying or dissolving the automatic stay imposed by Bankruptcy Code § 362.

This document deviates from the prescribed form “for good cause” under Local Bankruptcy Rule 4001-1 because the prescribed form is inapplicable for *ad valorem* property tax foreclosure.

MEMORANDUM IN SUPPORT

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this motion is proper under 28 U.S.C. §§ 1408 and 1409.

2. Debtor **MARK TUFTS** is the record property owner of said real property, having acquired it in a deed recorded April 7, 1995, in Deed Volume 357, Pages 665 et seq., in the records of the recorder of Richland County, Ohio.
3. Pursuant to Ohio Revised Code § 323.11, Ohio law grants a lien in favor of the State for real estate taxes levied on the real and public utility tax list and duplicate for each year, which attaches to all real property subject to such taxes annually on the first day of January and continues until such taxes, including any penalties and interest or other charges are paid.
4. Pursuant to Ohio Revised Code § 5721.10, The State of Ohio has the first has the first lien on the lands and lots described in the delinquent land list, for the amount of taxes, assessments, interest, and penalty charged prior to the delivery of such list.
5. Perfection of the State's lien takes place automatically at the time of attachment by operation of law.
6. As of the date of this motion, there is currently due and owing a balance of \$ 13,481.58 charged against the property, which comprises the amount of taxes, assessments, charges, penalties, and interest against said parcel owed as of that date. Additional amounts may continue to accrue after that date and while this action is pending and through the date of sale, if any. The total provided in this paragraph cannot be relied upon as a payoff quotation.
7. Other parties known to have an interest in the collateral besides the debtors, the Movant, and the trustee are: **NONE**
8. The value of the Collateral is \$1,300.00. This valuation is based upon the Richland County Auditor's sexennial reappraisal, last completed in 2018.

9. No post-petition trustee disbursements or debtor direct payments have been made on parcel.

10. The Movant is entitled to relief from the automatic stay under Bankruptcy Code § 362(d) for these reasons:

- a. The Debtor's Plan provides for the surrender of the collateral.
- b. The Debtor has no equity in the collateral, because the Collateral is valued at \$1,300.00, and including the Movant's lien, there are liens in an aggregate amount of \$13,481.58 on the Collateral.
- c. Debtor has failed to keep current the real estate taxes owed on the Collateral.

WHEREFORE, Movant prays for an order from the Court granting Movant relief from the automatic stay of Bankruptcy Code § 362 to permit Movant to proceed under applicable nonbankruptcy law.

Respectfully submitted,

/s/Jonathon C. Elgin
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CERTIFICATE OF SERVICE

The undersigned certifies that on November 21, 2018, a true and correct copy of the foregoing MOTION OF RICHLAND COUNTY TREASURER FOR RELIEF FROM STAY was served via the Court's electronic case filing system on the following who are listed on the Court's Electronic Mail Notice List:

Milos Gvozdenovic
Weltman, Weinberg, & Reis Co., L.P.A.
Attorney for Key Bank

Douglas L. Thrush
Attorney for Debtor

Dynele L Schinker-Kuharich
Trustee

/s/Jonathon C. Elgin
Jonathon C. Elgin (0096390)

